

116TH CONGRESS  
2D SESSION

# H. R. 6486

To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period, to require the Secretary to carry out outreach and educational activities for such special enrollment period, to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished during any portion of such emergency period, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2020

Mr. RUIZ (for himself and Ms. UNDERWOOD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period, to require the Secretary to carry out outreach and educational activities for such special enrollment period, to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished

during any portion of such emergency period, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Care for COVID-19  
5   Act 2.0”.

6   **SEC. 2. SPECIAL ENROLLMENT PERIOD THROUGH EX-**  
7                   **CHANGES; FEDERAL EXCHANGE OUTREACH**  
8                   **AND EDUCATIONAL ACTIVITIES.**

9       (a) SPECIAL ENROLLMENT PERIOD THROUGH EX-  
10   CHANGES.—Section 1311(c) of the Patient Protection and  
11   Affordable Care Act (42 U.S.C. 18031(c)) is amended—

12               (1) in paragraph (6)—

13                       (A) in subparagraph (C), by striking at the  
14                       end “and”;

15                       (B) in subparagraph (D), by striking at  
16                       the end the period and inserting “; and”; and

17                       (C) by adding at the end the following new  
18                       subparagraph:

19                       “(E) subject to subparagraph (B) of para-  
20                       graph (8), the special enrollment period de-  
21                       scribed in subparagraph (A) of such para-  
22                       graph.”; and

23               (2) by adding at the end the following new  
24                       paragraph:

1               “(8) SPECIAL ENROLLMENT PERIOD FOR CER-  
2 TAIN PUBLIC HEALTH EMERGENCY.—

3               “(A) IN GENERAL.—The Secretary shall,  
4 subject to subparagraph (B), require an Ex-  
5 change to provide—

6               “(i) for a special enrollment period  
7 during the emergency period described in  
8 section 1135(g)(1)(B) of the Social Secu-  
9 rity Act—

10               “(I) which shall begin on the  
11 date that is one week after the date of  
12 the enactment of this paragraph and  
13 which, in the case of an Exchange es-  
14 tablished or operated by the Secretary  
15 within a State pursuant to section  
16 1321(c), shall be an 8-week period;  
17 and

18               “(II) during which any individual  
19 who is otherwise eligible to enroll in a  
20 qualified health plan through the Ex-  
21 change may enroll in such a qualified  
22 health plan; and

23               “(ii) that, in the case of an individual  
24 who enrolls in a qualified health plan  
25 through the Exchange during such enroll-

1                   ment period, the coverage period under  
2                   such plan shall begin, at the option of the  
3                   individual, on April 1, 2020, or on the first  
4                   day of the month following the day the in-  
5                   dividual selects a plan through such special  
6                   enrollment period.

7                   “(B) EXCEPTION.—The requirement of  
8                   subparagraph (A) shall not apply to a State-op-  
9                   erated or State-established Exchange if such  
10                  Exchange, prior to the date of the enactment of  
11                  this paragraph, established or otherwise pro-  
12                  vided for a special enrollment period to address  
13                  access to coverage under qualified health plans  
14                  offered through such Exchange during the  
15                  emergency period described in section  
16                  1135(g)(1)(B) of the Social Security Act.”.

17                  (b) FEDERAL EXCHANGE OUTREACH AND EDU-  
18                  CATIONAL ACTIVITIES.—Section 1321(c) of the Patient  
19                  Protection and Affordable Care Act (42 U.S.C. 18041(c))  
20                  is amended by adding at the end the following new para-  
21                  graph:

22                  “(3) OUTREACH AND EDUCATIONAL ACTIVI-  
23                  TIES.—

24                  “(A) IN GENERAL.—In the case of an Ex-  
25                  change established or operated by the Secretary

1           within a State pursuant to this subsection, the  
2           Secretary shall carry out outreach and edu-  
3           cational activities for purposes of informing po-  
4           tential enrollees in qualified health plans offered  
5           through the Exchange of the availability of cov-  
6           erage under such plans and financial assistance  
7           for coverage under such plans. Such outreach  
8           and educational activities shall be provided in a  
9           manner that is culturally and linguistically ap-  
10          propriate to the needs of the populations being  
11          served by the Exchange (including hard-to-  
12          reach populations, such as racial and sexual mi-  
13          norities, limited English proficient populations,  
14          and young adults).

15           “(B) LIMITATION ON USE OF FUNDS.—No  
16          funds appropriated under this paragraph shall  
17          be used for expenditures for promoting non-  
18          ACA compliant health insurance coverage.

19           “(C) NON-ACA COMPLIANT HEALTH IN-  
20          SURANCE COVERAGE.—For purposes of sub-  
21          paragraph (B):

22           “(i) The term ‘non-ACA compliant  
23          health insurance coverage’ means health  
24          insurance coverage, or a group health plan,  
25          that is not a qualified health plan.

1                         “(ii) Such term includes the following:

2                             “(I) An association health plan.

3                             “(II) Short-term limited duration

4                             insurance.

5                         “(D) FUNDING.—Out of any funds in the

6                             Treasury not otherwise appropriated, there are

7                             hereby appropriated \$25,000,000 to carry out

8                             this paragraph. Funds appropriated under this

9                             subparagraph shall remain available until ex-

10                             pended.”.

11                         (c) IMPLEMENTATION.—The Secretary of Health and

12                             Human Services may implement the provisions of (includ-

13                             ing amendments made by) this section through subregu-

14                             latory guidance, program instruction, or otherwise.

15                         **SEC. 3. COVERAGE OF COVID-19 RELATED TREATMENT AT**

16                         **NO COST SHARING.**

17                         (a) IN GENERAL.—A group health plan and a health

18                             insurance issuer offering group or individual health insur-

19                             ance coverage (including a grandfathered health plan (as

20                             defined in section 1251(e) of the Patient Protection and

21                             Affordable Care Act)) shall provide coverage, and shall not

22                             impose any cost sharing (including deductibles, copay-

23                             ments, and coinsurance) requirements, for the following

24                             items and services furnished during any portion of the

25                             emergency period defined in paragraph (1)(B) of section

1 1135(g) of the Social Security Act (42 U.S.C. 1320b–  
2 5(g)) beginning on or after the date of the enactment of  
3 this Act:

4                 (1) Medically necessary items and services (in-  
5 cluding in-person or telehealth visits in which such  
6 items and services are furnished) that are furnished  
7 to an individual who has been diagnosed with (or  
8 after provision of the items and services is diagnosed  
9 with) COVID-19 to treat or mitigate the effects of  
10 COVID-19.

11                 (2) Medically necessary items and services (in-  
12 cluding in-person or telehealth visits in which such  
13 items and services are furnished) that are furnished  
14 to an individual who is presumed to have COVID-  
15 19 but is never diagnosed as such, if the following  
16 conditions are met:

17                     (A) Such items and services are furnished  
18 to the individual to treat or mitigate the effects  
19 of COVID-19 or to mitigate the impact of  
20 COVID-19 on society.

21                     (B) Health care providers have taken ap-  
22 propriate steps under the circumstances to  
23 make a diagnosis, or confirm whether a diag-  
24 nosis was made, with respect to such individual,  
25 for COVID-19, if possible.

1       (b) ITEMS AND SERVICES RELATED TO COVID-

2 19.—For purposes of this section—

3               (1) not later than one week after the date of  
4               the enactment of this section, the Secretary of  
5               Health and Human Services, Secretary of Labor,  
6               and Secretary of the Treasury shall jointly issue  
7               guidance specifying applicable diagnoses and medi-  
8               cally necessary items and services related to COVID-  
9               19; and

10              (2) such items and services shall include all  
11               items or services that are relevant to the treatment  
12               or mitigation of COVID-19, regardless of whether  
13               such items or services are ordinarily covered under  
14               the terms of a group health plan or group or indi-  
15               vidual health insurance coverage offered by a health  
16               insurance issuer.

17       (c) REIMBURSEMENT TO PLANS AND COVERAGE FOR

18 WAIVING COST SHARING.—

19              (1) IN GENERAL.—A group health plan or a  
20               health insurance issuer offering group or individual  
21               health insurance coverage (including a grandfathered  
22               health plan (as defined in section 1251(e) of the Pa-  
23               tient Protection and Affordable Care Act)) that does  
24               not impose cost sharing requirements as described in  
25               subsection (a) shall notify the Secretary of Health

1 and Human Services, Secretary of Labor, and Sec-  
2 retary of the Treasury (through a joint process es-  
3 tablished jointly by the Secretaries) of the total dol-  
4 lar amount of cost sharing that, but for the applica-  
5 tion of subsection (a), would have been required  
6 under such plans and coverage for items and serv-  
7 ices related to COVID-19 furnished during the pe-  
8 riod to which subsection (a) applies to enrollees, par-  
9 ticipants, and beneficiaries in the plan or coverage to  
10 whom such subsection applies, but which was not  
11 imposed for such items and services so furnished  
12 pursuant to such subsection and the Secretary of  
13 Health and Human Services, in coordination with  
14 the Secretary of Labor and the Secretary of the  
15 Treasury, shall make payments in accordance with  
16 this subsection to the plan or issuer equal to such  
17 total dollar amount.

18 (2) METHODOLOGY FOR PAYMENTS.—The Sec-  
19 retary of Health and Human Services, in coordina-  
20 tion with the Secretary of Labor and the Secretary  
21 of the Treasury shall establish a payment system for  
22 making payments under this subsection. Any such  
23 system shall make payment for the value of cost  
24 sharing not imposed by the plan or issuer involved.

1                             (3) TIMING OF PAYMENTS.—Payments made  
2 under paragraph (1) shall be made no later than  
3 May 1, 2021, for amounts of cost sharing waivers  
4 with respect to 2020. Payments under this sub-  
5 section with respect to such waivers with respect to  
6 a year subsequent to 2020 that begins during the  
7 period to which subsection (a) applies shall be made  
8 no later than May of the year following such subse-  
9 quent year.

10                             (4) APPROPRIATIONS.—There is authorized to  
11 be appropriated, and there is appropriated, out of  
12 any monies in the Treasury not otherwise appro-  
13 priated, such funds as are necessary to carry out  
14 this subsection.

15                             (d) ENFORCEMENT.—

16                             (1) APPLICATION WITH RESPECT TO PHSAA,  
17 ERISA, AND IRC.—The provisions of this section  
18 shall be applied by the Secretary of Health and  
19 Human Services, Secretary of Labor, and Secretary  
20 of the Treasury to group health plans and health in-  
21 surance issuers offering group or individual health  
22 insurance coverage as if included in the provisions of  
23 part A of title XXVII of the Public Health Service  
24 Act, part 7 of the Employee Retirement Income Se-

1       curity Act of 1974, and subchapter B of chapter 100  
2       of the Internal Revenue Code of 1986, as applicable.

3                     (2) PRIVATE RIGHT OF ACTION.—An individual  
4       with respect to whom an action is taken by a group  
5       health plan or health insurance issuer offering group  
6       or individual health insurance coverage in violation  
7       of subsection (a) may commence a civil action  
8       against the plan or issuer for appropriate relief. The  
9       previous sentence shall not be construed as limiting  
10      any enforcement mechanism otherwise applicable  
11      pursuant to paragraph (1).

12                   (e) IMPLEMENTATION.—The Secretary of Health and  
13      Human Services, Secretary of Labor, and Secretary of the  
14      Treasury may implement the provisions of this section  
15      through sub-regulatory guidance, program instruction, or  
16      otherwise.

17                   (f) TERMS.—The terms “group health plan”, “health  
18      insurance issuer”, “group health insurance coverage”, and  
19      “individual health insurance coverage” have the meanings  
20      given such terms in section 2791 of the Public Health  
21      Service Act (42 U.S.C. 300gg–91), section 733 of the Em-  
22      ployee Retirement Income Security Act of 1974 (29  
23      U.S.C. 1191b), and section 9832 of the Internal Revenue  
24      Code of 1986, as applicable.

